

S. N. 10/648,526
November 3, 2005

REMARKS

Applicant acknowledges receipt of the Final Office Action dated May 3, 2004, in which the Examiner continued the rejection of claims 1-3, 6-13, and 16-20 as anticipated by U.S. Patent 4,634,446 to *Kristinsson* and rejected claims 1 and 11 as anticipated by U.S. Patent 3,953,900 to Thompson.. Applicant has amended the claims and respectfully traverses these rejections for the reasons set out below.

In the Final Office Action, the Examiner states that he "has only given patentable weight to the mount but has not given patentable weight to the functional axis of the joint axis." Applicant has amended the claims and respectfully submits that the amended claim language relating to the mount recites a structural limitation. Specifically, the amended claim recites that the mount defines a joint axis and requires the mount to be "positioned on said surface such that said joint axis substantially passes through the center of rotation of the patient's natural hip joint." The amendment is supported in the specification as-filed and does not constitute new matter.

Applicant submits that, as amended, the claim recites a structural limitation. If the mount, which defines a single axis of rotation, is mounted anywhere else, then its axis of rotation will not coincide with the recited natural axis. Hence, the claim element dictates a structural aspect of the invention and the recitation is a structural limitation. Because none of the cited references teaches or suggests a device meeting this limitation and the rest of the limitations of the claims, Applicant respectfully submits that the amended claims are allowable over the art of record.

Claim 4 has been amended to place it in independent form by incorporating the limitations of claims 1-3, from which it formerly depended. Applicant respectfully submit that claims 4 and 5 are therefore in condition for allowance.

Conclusion

Applicants respectfully submit that the present amendments place the claims in condition for allowance and therefore respectfully request that the Examiner enter the amendments and reconsider and withdraw the rejections. If the Examiner has any questions regarding this matter, he is encouraged to telephone the undersigned at (713) 238-8043.

Respectfully submitted,



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